

**Central Administrative Tribunal
Principal Bench**

OA No.109/2019

New Delhi, this the 15th day of February, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Sh. Mohd. Jamshed, Member (A)**

Amrendra Kumar Jain, EE(Civil)
Group 'A', Aged about 45 years
S/o Late Sh. Pasupati Nath Jalan
R/o Flat No.A-506, Homes 121
Sec.-121, Noida, UP. ... Applicant

(By Advocate: Shri M.K. Bhardwaj)

Vs.

1. Union of India through its Secretary
Ministry of Housing & Urban Affairs
Nirman Bhawan, New Delhi.
2. The Director General, CPWD
Ministry of Housing & Urban Affairs
Nirman Bhawan, New Delhi. ...Respondents

(By Advocate: Dr. Ch. Shamsuddin Khan)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The applicant is working as Executive Engineer in the CPWD. He became due for promotion to the post of Superintending Engineer. This OA is filed with a prayer to declare the action of the respondents in denying him the promotion, to the post of Superintending Engineer,

even while similarly situated persons were promoted through order dated 28.12.2018. Further, prayer is to declare the action of the respondents in taking recourse to the sealed cover procedure, as illegal.

2. The plea of the applicant is that the sealed cover proceedings can be adopted in only any of the three circumstances, namely, (a) existence of a charge sheet in the departmental proceedings; (b) Charge sheet in criminal case or; (c) Placing of employee under suspension and, that in the instant case none of the three circumstance exist.

3. The OA was listed for admission on 10.01.2019 and on that date, we required the learned counsel for the respondents to obtain instructions as to on what basis the sealed cover procedure was adopted.

4. Today, a short reply is filed on behalf of respondent Nos. 1 and 2. It is stated that the case of the applicant was considered by the DPC which met on 18.12.2018 and the applicant was declared as unfit. Reference is made to pendency of an FIR against the applicant and a requisition made for according sanction.

5. We heard Shri M.K. Bhardwaj, learned counsel for the applicant and Dr. Ch. Shamsuddin Khan, learned counsel for the respondents.

6. The applicant is under the impression that (a) the sealed cover procedure has been adopted in his case and (b) he was denied promotion by the DPC even while other similarly placed Executive Engineers were promoted.

7. A perusal of the affidavit filed on behalf of respondent Nos. 1 and 2, discloses that firstly no sealed cover procedure was adopted and secondly, the DPC did consider his case and declared him unfit. This being the case, the very prayer in the OA becomes misconceived.

8. We, therefore, dismiss the OA leaving it open to the applicant to pursue the remedies in accordance with law. There shall be no order as to costs.

(Mohd.Jamshed)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

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